

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,)	
)	
Plaintiff,)	C.A. No. 04-901-JJF
)	
v.)	
)	
ILLUMINA, INC.,)	
)	
Defendant.)	

AFFYMETRIX'S PROPOSED VERDICT SHEET

Pursuant to D. Del. L.R. 51.1(c), Affymetrix, Inc. submits the attached Proposed Verdict Sheet, in triplicate. This document is also being submitted on disk in WordPerfect format.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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INFRINGEMENT

INFRINGEMENT OF THE '243 PATENT

1. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,646,243?

Answer the following question regarding infringement of the '243 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 35	Yes _____	No _____

2. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '243 patent?

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 35	Yes _____	No _____

INFRINGEMENT OF THE '365 PATENT

3. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,399,365?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____

4. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '365 patent?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____

INFRINGEMENT OF THE '432 PATENT

5. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,355,432?

Answer the following question regarding infringement of the '432 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 2 Yes _____ No _____

Claim 9 Yes _____ No _____

6. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '432?

Claim 2 Yes _____ No _____

Claim 9 Yes _____ No _____

INFRINGEMENT OF THE '531 PATENT

7. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,545,531?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____

Claim 2 Yes _____ No _____

8. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '531 patent?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____

Claim 2 Yes _____ No _____

INFRINGEMENT OF THE '716 PATENT

9. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,795,716?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

10. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '716 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

11. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '716 patent?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

DAMAGES

12. If you have found that Illumina has infringed at least one asserted claim from any of the '243, '365, '432, '531 and/or '716 patents, has Affymetrix proven by a preponderance of the evidence that it is entitled to lost profits damages?

Answer the following question regarding damages with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

13. If you answered "Yes" to question number 12, what amount of lost profits has Affymetrix proven it is entitled to?

Amount \$ _____

14. For any infringing sales that Affymetrix has not sought lost profits damages for or to which you conclude that Affymetrix is not entitled to lost profits damages, what reasonably royalty has Affymetrix proven by a preponderance of the evidence that it is entitled to?

Royalty _____%

Amount \$ _____

You must each sign this Verdict Form:

Dated: _____

_____ (foreperson)

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2007, I electronically filed the foregoing document using CM/ECF which will send notification of such filing(s) to the following:

Richard K. Herrmann
Morris James LLP

I also certify that copies were caused to be served on March 9, 2007 upon the following in the manner indicated:

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